(1) (3)

IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH AT BILASPUR

Single Bench

Writ Petition No. 1645 /2006

Petitioner : Basantu Ram aged 63 years son of S. Ram resident of village Tenganmada, Tahsil Kota, Distt. Bilaspur (C.G.)

VERSUS

Respondents :
1. Union of India through The Chairman of Railway Board, New Delhi
2. General Manager, S.E.C. Railway, Bilaspur
3. Divisional Railway Maganer, S.E.C. Railway Bilaspur
4. Senior Divisional Operating Manager, S.E.C.R. Bilaspur

R.R. No. 1243/06 Presented by Kumar Pandey dated 6/3/06

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF MANDAMUS, CERTIORARI, QUO WARRANTO, PROHIBITION AND/OR ANY OTHER WRIT/ORDER/DIRECTION ON THE SAME NATURE IN THE CIRCUMSTANCES OF THE CASE.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1645 of 2006

Petitioner Basantu Ram

Versus

Respondents Union of India & others

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Kamal Pandey, Advocate for the petitioner.

None for the respondents.

ORAL ORDER

(31st March, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner, who was working as Superintendent-II in South Eastern Railway at Tenganmada, Tahsil- Kota, District- Bilaspur was removed from service after proper enquiry on 16.9.1999. Being aggrieved the petitioner filed an application being Original Application No. 669/2000 before the Central Administrative Tribunal, Bench at Jabalpur. The Tribunal vide its order dated 24.9.2003 (Annexure P/3) held as under:-

> "In that backdrop, we are of the considered opinion that the penalty awarded is totally disproportionate to the dereliction of duty for which the applicant is held responsible. It is these factors that are being heavily striking in our mind and therefore we only allow the application in part directing that the disciplinary authority may pass any other penalty other than dismissal or removal. This exercise should be done within three months from today, as the applicant has attained the age of superannuation."

2. In compliance with the order dated 24.9.2003 passed by the Central Administrative Tribunal in O.A.No.669/2000, the respondents converted the punishment of removal to that of compulsory retirement

(47)

w.e.f. the same date i.e. 16.9.1999. The petitioner has filed this petition stating that the petitioner has worked even after the order of removal was passed against him. As such, the respondents be directed to make payment of salary and wages from 17.9.1999 to 11.5.2004, contention of the petitioner is based on the facts that the petitioner continued to retain certain documents till 11.5.2004 and as such it should be presumed that the petitioner has worked after removal from 17.9.1999 to 11.5.2004, and the payment for the said period be made to the petitioner.

3. This petition is misconceived. By retaining certain books/documents it cannot be presumed that the petitioner has worked after removal till 11.5.2004. The petitioner stands removed which has later on converted to the punishment of compulsory retirement w.e.f 16.9.1999. The contention of the petitioner deserves to be summarily rejected, as it does not make out a case for grant of any relief on misconception of the facts and law.

4. Accordingly, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur